



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/171320

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Public Assistance Collection Unit in regard to FoodShare benefits (FS), a telephone hearing was held on February 09, 2016.

The issue for determination is whether the agency correctly determined an FS overpayment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Public Assistance Collection Unit
PO Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of the State of Arizona.
2. Petitioner received duplicate FS benefits from the State of Wisconsin and the State of Arizona during the period of December, 2014 – May, 2015.
3. Petitioner's Veterans' Administration benefits were not reported to the respondent.

4. On November 6, 2015, the respondent issued a Food Share Overpayment notice to petitioner, identifying \$1,026.00 in overpaid FS benefits, based upon its finding that petitioner received dual FS benefits.

DISCUSSION

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); *FS Handbook*, Appendix 7.3.1.2.

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii).

A person cannot receive FS in two states. 7 C.F.R. §272.4(e)(1). State agencies must establish a system to assure that individuals participate in only one jurisdiction in a month. *Id.* The *FS Handbook*, Appendix 3.4.1 tells Wisconsin workers about the prohibition of duplicate benefits, and that the Wisconsin worker should contact the former state to verify the FS end date in the former state. Wisconsin will not issue FS in this state until the former state's benefits are closed.

On October 28, 2015, the respondent became aware of the duplicate benefits being issued to petitioner via the Public Assistance Reporting Information System. In this case the evidence shows that petitioner received FS in Arizona during the overpayment period of December 23, 2014, through May 31, 2015.

Petitioner has not claimed that he closed his existing FS case when he moved, or that his identity was stolen. He alleges that he was specifically told by his FS worker that he did not need to report his Veterans' Administration benefits. However, overissuance of FS benefits is recoverable by the respondent, regardless of who is at fault. And in any event, the issuance of duplicate benefits mandates recovery here. Thus, I find that the generally unrefuted evidence establishes that petitioner received duplicate FS in both states, and the FS issued to him by Wisconsin was an overpayment.

CONCLUSIONS OF LAW

The OIG correctly determined an FS overpayment issued to petitioner because the Wisconsin FS issued to him duplicated the Arizona FS issuances.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 14th day of March, 2016.

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 14, 2016.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability